

**Plaintiffs' Memorandum in Opposition
to Joint Motion for Summary
Judgment for Failure to Prove Fault
Element of Public Nuisance Claims**

Ex 14 – Cherveney Tr. Excerpts

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 - - -

5
6 IN RE: NATIONAL : HON. DAN A.
7 PRESCRIPTION OPIATE : POLSTER
8 LITIGATION : :
9 : :
10 APPLIES TO ALL CASES : NO.
11 : 1:17-MD-2804
12 : :
13 :

14 - HIGHLY CONFIDENTIAL -

15 SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

16 - - -

17 November 9, 2018

18 - - -

19 Videotaped deposition of
20 ERIC CHERVENY, taken pursuant to notice,
21 was held at the law offices of Reed
22 Smith, LLP, 1717 Arch Street,
23 Philadelphia, Pennsylvania, beginning at
24 9:50 a.m., on the above date, before
25 Michelle L. Gray, a Registered
26 Professional Reporter, Certified
27 Shorthand Reporter, Certified Realtime
28 Reporter, and Notary Public.

29 - - -

30 GOLKOW LITIGATION SERVICES
31 877.370.3377 ph | 917.591.5672 fax
32 deps@golkow.com

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1 MR. NICHOLAS: Object to the
 2 form. Asked and answered.
 3 THE WITNESS: I mean, it's
 4 going to vary depending on
 5 lawsuit, from lawsuit to lawsuit.
 6 I'm not going -- I'm sure they
 7 have a case against the company
 8 for whatever reasons, you know,
 9 that they have. But I don't know
 10 anything -- any details about the
 11 litigation beyond that.
 12 BY MR. CLUFF:
 13 Q. When you say "they," do you
 14 mean customers?
 15 A. It could be customers. It
 16 could be government entities.
 17 Q. What kind of cases do
 18 government entities file against ABDC?
 19 MR. NICHOLAS: Objection to
 20 form. Asked and answered.
 21 THE WITNESS: I think I've
 22 answered the question. I don't
 23 have anything more than a basic
 24 understanding that the company has

Page 23

1 lawsuits placed against it. I
 2 don't have any detailed knowledge
 3 about anything about the lawsuits
 4 that are placed against it other
 5 than what I've told you.
 6 BY MR. CLUFF:
 7 Q. Sure. So your lawyer just
 8 objected "asked and answered." And your
 9 response was "I think I've answered the
 10 question."
 11 So your lawyer, like I said,
 12 is entitled to object. But I'm entitled
 13 to the answer that you were going to give
 14 me prior to the objection unless you're
 15 instructed not to answer.
 16 So if you hear an objection
 17 like asked and answered, I'm still
 18 entitled to my answer. You can't just
 19 change your answer to say that you've
 20 answered the question.
 21 Sometimes my questions are
 22 going to be slightly different than the
 23 ones that I've previously asked. Does
 24 that make sense?

Page 24

1 A. Yes.
 2 Q. Okay. So going forward I
 3 think we'll understand that, and there
 4 won't be an issue.
 5 All right. We might come
 6 back to these lawsuits a little bit
 7 later. But I think let's talk about your
 8 experience and your job. Does that make
 9 sense?
 10 A. Yes.
 11 Q. Okay. So are you employed
 12 by ABDC?
 13 A. No.
 14 Q. Okay. So who are you
 15 employed by?
 16 A. I'm employed by the parent
 17 company, ABC.
 18 Q. Okay. How does your
 19 relationship to ABDC work out then?
 20 MR. NICHOLAS: Object to the
 21 form.
 22 THE WITNESS: Subsidiary
 23 company of ABC.
 24 BY MR. CLUFF:

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1 Q. Okay. And so what
 2 responsibilities as an employee of ABC do
 3 you have towards ABDC?
 4 A. I'm the director of
 5 diversion control and security for the
 6 company.
 7 Q. Is diversion control the
 8 same thing as security?
 9 A. No.
 10 Q. So you have kind of two
 11 responsibilities then, it sounds like,
 12 diversion control and then security
 13 separate from diversion control?
 14 A. The formal title has some
 15 security components to it. But it's
 16 primarily diversion that I'm responsible
 17 for.
 18 Q. Okay. How long have you
 19 been an employee of ABC?
 20 A. Going on 22 years.
 21 Q. 22 years. So that's
 22 sometime in the '90s, maybe '96?
 23 A. Yes.
 24 Q. Okay. And when you started

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1 Q. Are you aware of any events
 2 in the south region from a licensing or
 3 regulatory compliance point of view that
 4 would concern you?
 5 MR. NICHOLAS: Object to the
 6 form.
 7 THE WITNESS: Yes. Events
 8 did occur that impacted the south
 9 region.
 10 BY MR. CLUFF:
 11 Q. What events?
 12 A. I recall that in 2007 the
 13 Orlando distribution center had their DEA
 14 license suspended.
 15 Q. So previously I asked you if
 16 there was anything that happened in that
 17 region that concerned you from an
 18 auditing standpoint. And you said no.
 19 A. That's correct.
 20 Q. So is your answer that the
 21 suspension of a distribution center's
 22 license doesn't concern you?
 23 MR. NICHOLAS: Objection.
 24 It's just arguing.

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1 MR. CLUFF: It's a question,
 2 Bob.
 3 MR. NICHOLAS: Go ahead.
 4 It's just arguing. Stalling.
 5 MR. CLUFF: Bob, I'm allowed
 6 to ask argumentative questions.
 7 It's a deposition. Don't coach
 8 this witness.
 9 MR. NICHOLAS: I'm not --
 10 that's not coaching. I just said
 11 you're arguing. Period.
 12 Objection.
 13 Go ahead.
 14 THE WITNESS: I don't think
 15 that the -- that the action taken
 16 against that distribution center
 17 affected my -- from an audit
 18 standpoint. So that's the
 19 question that I was answering.
 20 My audits -- my audits were
 21 conducted regardless of what
 22 action is taken on a distribution
 23 center.
 24 BY MR. CLUFF:

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1 Q. Have there ever been any
 2 actions against registrations of
 3 distribution centers in the regions that
 4 you were responsible for between 2002 and
 5 2015?
 6 A. Yeah. Various actions were
 7 taken on my distribution centers through
 8 that period.
 9 Q. Okay. What actions were
 10 taken against your distribution centers?
 11 A. Over a 13-year period?
 12 Q. Yes, please.
 13 A. We had multiple DEA audits
 14 during -- during that period of time,
 15 multiple state audits during that time.
 16 I couldn't give you specifics on actions
 17 that were taken in all distribution
 18 centers that spans such a long period of
 19 time. I don't recall.
 20 Q. Were there ever any
 21 suspensions of a distribution center's
 22 license in your regions?
 23 A. Not that I recall.
 24 Q. Were there any

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1 investigations of diversion at any of the
 2 distribution centers within your regions
 3 between 2002 and 2015?
 4 MR. NICHOLAS: Object to the
 5 form.
 6 THE WITNESS: Yes.
 7 BY MR. CLUFF:
 8 Q. What were some of those?
 9 A. I can't speak to them in
 10 detail. Diversion, internal thefts,
 11 in-route thefts were investigations that
 12 we routinely conducted through that
 13 period.
 14 Q. So would you agree with me
 15 that if a theft occurs inside of
 16 AmerisourceBergen, that would constitute
 17 diversion?
 18 A. Yes, that would qualify as
 19 diversion.
 20 Q. So AmerisourceBergen was
 21 essentially investigating diversion
 22 within its own company while you were
 23 working as a regional supervisor from
 24 2002 to 2015?

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1 the specific schedule that that occurred.
 2 Q. Do you recall that that
 3 happened in 2012?
 4 A. I don't recall.
 5 Q. Do you recall if your audit
 6 was before or after this conversion from
 7 Distrack to Metastorm?
 8 A. No.
 9 Q. Do you recall if it was
 10 before or after the conversion from that
 11 system to SAP?
 12 A. Well, the -- the conversion
 13 from Metastorm to SAP occurred after
 14 that. So it was definitely before the
 15 conversion to SAP.
 16 Q. So if we could pinpoint on a
 17 calendar when the conversion from
 18 Metastorm to SAP was, we could narrow
 19 down the time period that you audited the
 20 Orlando distribution center, right?
 21 A. We can state it would have
 22 been before that period.
 23 Q. But you have no recollection
 24 when the SAP system went into effect?

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1 A. No, not specifically.
 2 Q. Do you -- do you know if it
 3 was before 2015?
 4 A. Yes, it was before 2015.
 5 Q. So you audited it, audited
 6 the Orlando distribution center before
 7 2015?
 8 A. That's correct.
 9 Q. This audit of the Orlando
 10 distribution center that you so
 11 specifically recall, why do you
 12 specifically recall it?
 13 MR. NICHOLAS: Object to the
 14 form.
 15 THE WITNESS: I just
 16 remember being there.
 17 BY MR. CLUFF:
 18 Q. What do you remember about
 19 being there?
 20 A. I remember being in Orlando.
 21 Q. That's it?
 22 A. That's it.
 23 Q. Do you remember filling out
 24 an audit checklist while you were there?

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1 A. I'm sure that one was filled
 2 out since I conducted an audit.
 3 Q. Do you remember if it was
 4 before or after the license was suspended
 5 in Orlando?
 6 A. I don't recall.
 7 Q. Do you remember if there
 8 were any specific procedures or policies
 9 that Orlando was faulting -- following
 10 during that audit that were implemented
 11 as a result of the settlement with the
 12 DEA in 2007?
 13 A. No.
 14 Q. Is that something you would
 15 have audited if they had been in place?
 16 MR. NICHOLAS: Object to the
 17 form.
 18 THE WITNESS: If a change
 19 was made to the audit protocol
 20 then I would have followed it
 21 during the audit.
 22 BY MR. CLUFF:
 23 Q. If there were policies or
 24 procedures that the Orlando distribution

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1 center was following as a result of the
 2 settlement with the DEA, would you have
 3 audited those?
 4 MR. NICHOLAS: Object to the
 5 form.
 6 THE WITNESS: It would
 7 depend if it was part of the audit
 8 checklist.
 9 BY MR. CLUFF:
 10 Q. Are you familiar with why
 11 the Orlando distribution center lost its
 12 DEA license?
 13 A. I have a general
 14 understanding that the DEA suspended the
 15 license because they made the allegation
 16 that we were not following the
 17 regulation.
 18 Q. Which regulation?
 19 A. To report and identify
 20 suspicious orders.
 21 Q. Where did you obtain that
 22 general understanding?
 23 A. During the occurrence.
 24 Q. So during the suspension of

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1 the Orlando distribution center's license
 2 you became aware why the registration was
 3 suspended?
 4 MR. NICHOLAS: Object to the
 5 form.
 6 THE WITNESS: Yeah, I recall
 7 the general allegation.
 8 BY MR. CLUFF:
 9 Q. Where did you hear about
 10 that from?
 11 A. I don't recall. Big news
 12 back then.
 13 Q. It was big news. People
 14 talking about it in the halls?
 15 MR. NICHOLAS: Object to the
 16 form and the commentary.
 17 Go ahead.
 18 THE WITNESS: There was a
 19 lot of discussions surrounding it.
 20 BY MR. CLUFF:
 21 Q. Were there meetings about
 22 it?
 23 A. Yes.
 24 Q. Were reports written about

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1 it?
 2 A. None that I'm specifically
 3 aware of.
 4 Q. Do you understand that
 5 reports may have been written about it?
 6 MR. NICHOLAS: Well, I'll
 7 object to the form of that
 8 question.
 9 Go ahead.
 10 THE WITNESS: I assume so.
 11 None that I was directly involved
 12 in -- involved with.
 13 BY MR. CLUFF:
 14 Q. You wouldn't have
 15 participated in discussing the suspension
 16 in your role as an auditor?
 17 MR. NICHOLAS: Object to the
 18 form.
 19 THE WITNESS: You know,
 20 right when that happened, my
 21 father passed away, and I had to
 22 take a leave of absence. So when
 23 I got back, a lot of that -- a lot
 24 of those changes had been -- had

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1 been completed or were in process,
 2 and I was not part of that -- that
 3 process.
 4 BY MR. CLUFF:
 5 Q. When I asked you if reports
 6 were written about the suspension, you
 7 said you assume so.
 8 Why do you assume that they
 9 would have been written?
 10 MR. NICHOLAS: Object to the
 11 form. And of course, Mr. Cluff
 12 will be the first to tell you that
 13 you shouldn't assume in an answer
 14 to a question.
 15 So go ahead.
 16 THE WITNESS: When you have
 17 an occurrence like that, I would
 18 assume that it would, you know,
 19 involve a chain reaction and a lot
 20 of different departments would be
 21 involved in handling the
 22 suspension.
 23 So I would assume, as a
 24 previous auditor, that reports

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1 would have been generated as a
 2 result of the action taken against
 3 us.
 4 BY MR. CLUFF:
 5 Q. So based on your 13 years of
 6 experience as an auditor, your
 7 understanding is that an event like the
 8 suspension of a distribution center's
 9 license would result in the creation of
 10 reports about why the suspension
 11 occurred?
 12 MR. NICHOLAS: Is that a
 13 question?
 14 MR. CLUFF: I'm exploring
 15 his understanding, Bob.
 16 MR. NICHOLAS: I just want
 17 to hear it in the form of a
 18 question. You're making a
 19 statement.
 20 MR. PIFKO: Just say "is
 21 that correct."
 22 BY MR. CLUFF:
 23 Q. Is that correct?
 24 MR. NICHOLAS: Yeah, say "is

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1 to review the report. I don't remember
 2 how I was instructed.
 3 Q. Do you know who would have
 4 given you the instructions?
 5 A. I believe Steve would have
 6 done that.
 7 Q. Okay. And so tell me what
 8 your recollection of what you were
 9 supposed to look at on this report was.
 10 A. So the report contained
 11 sales data for customers. And I believe
 12 it was Oxycodone and hydrocodone
 13 products. If they breached a parameter,
 14 it would trigger this report to be
 15 generated. So I got the report
 16 periodically and it may have been, you
 17 know, I don't remember how much it was,
 18 but I would separate it by customer,
 19 because it would be, I believe
 20 alphabetical or it might have been by DEA
 21 number. But it would basically be, you
 22 know, one customer, then another
 23 customer, and it would just be -- it
 24 would span multiple customers in

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1 grouping. So I would group them in
 2 separate -- in separate files and then I
 3 would conduct the investigation of those
 4 customers.
 5 Q. Okay. And then what -- what
 6 things would you do to conduct the
 7 investigation of those customers?
 8 A. I had a couple support staff
 9 within the CSRA department that I used to
 10 assist me with this, that I would work
 11 with those individuals to contact the
 12 sales executive, to contact the customer
 13 to inquire as to why they were buying,
 14 you know, that quantity of controlled
 15 substances. We would collect all the
 16 information on the customer. We would
 17 take their responses to our questions and
 18 our follow-up questions, and we would
 19 complete an investigation of each
 20 customer.
 21 Q. Would there be some sort of
 22 document that you would create at the
 23 culmination of your investigation?
 24 A. Yeah. It would be an

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1 investigation report.
 2 Q. Okay. And then would you
 3 save that somewhere?
 4 A. Yeah. I believe it was
 5 maintained in Law Track.
 6 Q. And then was there a goal of
 7 the investigation that you were trying to
 8 determine something?
 9 MR. NICHOLAS: Object to the
 10 form.
 11 THE WITNESS: We were trying
 12 to determine if any improprieties
 13 were happening with regard to
 14 those orders. I would -- I would
 15 collect all the information that
 16 I -- that I could from the
 17 customer to explain, you know, the
 18 reasoning as to why they were
 19 buying that quantity of controls,
 20 and I would take the findings and
 21 I would, you know, provide it to
 22 Steve Mays. And what he did with
 23 it, you know, I'm not sure.
 24 Because at that point the

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1 decision -- the decisionmaking
 2 regarding my investigation that I
 3 completed was conducted, you know,
 4 outside of my realm. So I'm not
 5 sure what the -- what the -- what
 6 the results of those -- those
 7 investigations entailed.
 8 BY MR. PIFKO:
 9 Q. Did you make any
 10 recommendations for actions in the
 11 report?
 12 A. You know, it's been so long
 13 ago, I don't recall.
 14 Q. Do you recall if one of the
 15 things that you were evaluating was
 16 whether to fill the order?
 17 A. Well, keep in mind this was
 18 a system that we operated that was
 19 prior -- prior to the system that held
 20 orders.
 21 Q. Okay.
 22 A. So this was investigations
 23 that occurred after the shipment was
 24 already completed.

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1 Q. Okay. So it's your
 2 understanding that all these orders and
 3 in the possible suspicious order report
 4 had already been shipped; is that
 5 correct?
 6 A. Yes. Those were -- those
 7 were orders that have already been
 8 shipped. That's correct.
 9 Q. Okay. And you would look at
 10 it to evaluate whether there were
 11 concerns, and you would generate a
 12 report, but you didn't make any
 13 recommendations for a course of action
 14 going forward; is that correct?
 15 A. That's correct.
 16 Q. You provided that to Steve
 17 Mays, the report?
 18 A. Yes. I believe I give it
 19 directly to Steve Mays.
 20 Q. Did you send it by e-mail?
 21 A. I don't recall. We may have
 22 just put it in the Law Track system and
 23 he retrieved it from there. I don't
 24 recall how I gave it to him.

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1 Q. Do you recall about how long
 2 it would take you to conduct an
 3 investigation of a customer that was
 4 identified in this report?
 5 A. I don't recall.
 6 Q. Is it like -- put me in your
 7 shoes. I'm sitting -- I'm sitting at
 8 your desk. Is it like a thing that takes
 9 a week, and you're kind of doing it off
 10 and on? Is it something that you sit
 11 down and do in a few hours? Do you do it
 12 all day? Can you explain to me how long
 13 the process took in that regard?
 14 MR. NICHOLAS: Object to the
 15 form.
 16 You can go ahead and answer.
 17 Can we a break soon, Mark,
 18 maybe after this question?
 19 MR. PIFKO: Yeah.
 20 MR. NICHOLAS: Okay. Go
 21 ahead.
 22 THE WITNESS: Yeah, the --
 23 it would depend on how quickly we
 24 got the information that we asked

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1 for. Sometimes we would contact
 2 the customer, and it would take
 3 them time to respond to us. So it
 4 would depend on the investigation,
 5 anywhere from, you know, best case
 6 scenario, a couple days to maybe a
 7 couple weeks, just off the top of
 8 my head. But I -- it's been so
 9 long I don't recall.
 10 MR. PIFKO: Okay. Thank
 11 you. We'll take a break.
 12 THE VIDEOGRAPHER: Going off
 13 the record. 2:32 p.m.
 14 (Short break.)
 15 THE VIDEOGRAPHER: Back on
 16 record, 3:07 p.m.
 17 BY MR. PIFKO:
 18 Q. Welcome back.
 19 A. Thank you.
 20 Q. I want to talk about your
 21 educational background and training for a
 22 little bit. Okay?
 23 A. Yeah.
 24 Q. All right. So earlier we

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1 talked that you -- let me make sure I
 2 have a clear understanding. You went to
 3 high school, graduated high school. Then
 4 you went to Golden West College for a
 5 year, and then you decided to join the
 6 Navy, and did that, and then you got a
 7 job with Amerisource -- or with the
 8 Bergen Corporation, correct?
 9 A. Yes.
 10 Q. How long were you in the
 11 Navy?
 12 A. Five years.
 13 Q. And you had the same
 14 controller job during the entire duration
 15 of your service?
 16 A. Yes.
 17 Q. Okay. So when you got to
 18 the Bergen Corporation, you started as a
 19 security guard, you said, correct?
 20 A. Security officer. Yes.
 21 Q. Okay. And then when you
 22 moved into the regional manager director
 23 position, did you get any specific
 24 training?

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1 obstructing me from getting it out
 2 of him right now.
 3 BY MR. PIFKO:
 4 Q. Okay. With that said,
 5 what's the correction that you would like
 6 to make?
 7 A. The report that I reviewed,
 8 the periodic report that I referenced
 9 earlier, I indicated that it was a
 10 possible suspicious order report. It's
 11 actually called the possible excessive
 12 purchase report.
 13 Q. Okay.
 14 A. That's the correction.
 15 Q. But you remember it being
 16 called the suspicious order report
 17 because you were evaluating the
 18 suspicious natures of the orders; is that
 19 correct?
 20 MR. NICHOLAS: Object to the
 21 form.
 22 THE WITNESS: No. We're
 23 just talking multiple years since
 24 I reviewed the report. So I just

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1 misunderstood -- I misremembered
 2 what it was called.
 3 BY MR. PIFKO:
 4 Q. Okay. Why did you think it
 5 was called a possible suspicious order
 6 report?
 7 A. I don't know. I just didn't
 8 remember.
 9 Q. Do you have an understanding
 10 what an order that exceeds the threshold
 11 is?
 12 A. Well, it would depend.
 13 Q. Well, before 2007, are you
 14 aware that the company reported all
 15 orders that exceeded thresholds as
 16 suspicious to the DEA?
 17 A. No. I don't know how those
 18 reports were submitted and what was
 19 submitted.
 20 Q. Are you aware that the
 21 company reported suspicious orders to the
 22 DEA before 2007?
 23 A. I did not know that. I
 24 didn't know when it started. I didn't

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1 know when that happened or how it
 2 happened.
 3 Q. Are you aware that the
 4 company has a duty to identify and report
 5 suspicious orders?
 6 A. Yes. We have a
 7 responsibility to report suspicious
 8 orders.
 9 Q. And to identify them as
 10 well?
 11 A. Well, I think reporting it
 12 would be identifying them, wouldn't it?
 13 Q. Okay. Well, I just want to
 14 make sure we are using the correct words
 15 here.
 16 Okay. So you are aware that
 17 that's a requirement that the company
 18 has, correct?
 19 A. Yes, to review orders and
 20 identify suspicious orders and block them
 21 and report them.
 22 Q. Okay. Is that a new
 23 requirement?
 24 A. No.

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1 Q. Okay. That's something that
 2 you've always been required to do,
 3 correct?
 4 MR. NICHOLAS: Object to the
 5 form. Go ahead.
 6 THE WITNESS: Yes.
 7 BY MR. PIFKO:
 8 Q. As long as your tenure with
 9 the company going back to the late '90s,
 10 correct?
 11 A. Yes.
 12 Q. Okay.
 13 A. Well, the regulation has
 14 been -- has stated that since the early
 15 '90s, yes.
 16 Q. So we were going -- we
 17 were -- before we went into that sidebar,
 18 we were discussing your training and some
 19 of your responsibilities as the regional
 20 manager.
 21 So you supervised about
 22 eight compliance managers, five to eight,
 23 depending on the time, and you were
 24 responsible for conducting the audits,

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1 A. Order monitoring program?
 2 Q. Well, where it says,
 3 "48-hour reporting to DEA, know your
 4 customer"?
 5 A. Yeah.
 6 Q. All those things, do you see
 7 that?
 8 A. Yeah.
 9 Q. Okay. Are you familiar with
 10 what those enhancements were?
 11 A. Not in a detailed way, no.
 12 Q. Do you know what "know your
 13 customer" means?
 14 A. Yes. I understand the DEA's
 15 "know your customer" component.
 16 Q. What is that, what is your
 17 understanding of what that means?
 18 A. That we should have a good
 19 understanding of what their business
 20 model is so we have a better
 21 understanding of the orders that they are
 22 placing with -- with our distribution
 23 centers.
 24 Q. And when you say "they," you

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1 mean your customer?
 2 A. Correct.
 3 Q. Did you -- have you -- other
 4 than the investigations that you
 5 conducted between 2005 and 2007, did you
 6 ever conduct any due diligence
 7 investigations concerning customers?
 8 A. When you say --
 9 MR. NICHOLAS: Object to the
 10 form.
 11 THE WITNESS: When you say
 12 due diligence investigations, I
 13 was -- I was conducting
 14 investigations of a possible
 15 excessive purchase report. So if
 16 you would classify that as a due
 17 diligence, then I would say yes.
 18 BY MR. PIFKO:
 19 Q. This is after 2007 is what
 20 I'm asking.
 21 A. Post 2007?
 22 Q. Yeah.
 23 A. No. My responsibilities
 24 ceased after 2007 regarding that.

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1 Q. Okay. So did you -- did you
 2 have any involvement with conducting this
 3 "know your customer" due diligence that's
 4 discussed here that was implemented in
 5 2007?
 6 A. No, I don't believe so.
 7 That was handled by a different team.
 8 Q. Do you know the team that
 9 handled that?
 10 A. That was the diversion
 11 control team under corporate.
 12 Q. Who -- who was on that team?
 13 A. I don't recall the specific
 14 individuals. I know it was headed by Ed
 15 Hazewski.
 16 Q. Anyone else that you can
 17 think of?
 18 A. Those investigators
 19 transitioned in and out. I don't recall.
 20 Scott Kirsch was one investigator.
 21 Q. Anyone else?
 22 A. I can't remember.
 23 Q. Order monitoring program.
 24 Next thing down here. It's got establish

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1 thresholds. Do you know what a threshold
 2 is?
 3 A. Yes, I have a basic
 4 understanding of what a threshold is.
 5 Q. Okay. What's your
 6 understanding?
 7 A. I don't know exactly what
 8 went into those thresholds. I know it's
 9 a level at which, you know, purchase
 10 activity would draw a flag and hold the
 11 order until it could be investigated.
 12 Q. And then it says, "Review at
 13 distribution centers." Is that what it
 14 says?
 15 A. Yes.
 16 Q. Okay. What does that mean,
 17 do you know what that means?
 18 A. I believe that's when the
 19 RPICs were implemented at the DC level.
 20 Q. And before that what was the
 21 process?
 22 A. Prior to 2007 orders weren't
 23 held when investigation -- or when a
 24 suspicious order was flagged. We would

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1 conduct those investigations after the
 2 fact.
 3 Q. And so was there a personnel
 4 change? I believe we -- we talked about
 5 that under the computer ordering system,
 6 there are other reasons for an order to
 7 be flagged like if there was a payment
 8 credit issue -- I forget, there was some
 9 other reason that you said for an order
 10 to be held. So there was already someone
 11 whose job it was to be doing that prior
 12 to 2007; is that correct?
 13 MR. NICHOLAS: Object to the
 14 form. Go ahead.
 15 THE WITNESS: Yeah. There
 16 were -- there were other hold
 17 codes that did not include the
 18 order monitoring program hold
 19 code. So there was a number of
 20 hold codes that would hold an
 21 order, like licensing, credit and
 22 that kind of thing.
 23 BY MR. PIFKO:
 24 Q. Okay. And so there was

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1 already someone's job who it was to deal
 2 with those holds, correct?
 3 A. Yes. I believe so.
 4 Q. Okay. Were -- were those
 5 same people then added this
 6 responsibility of reviewing the order
 7 monitoring program holds?
 8 A. Back in that time frame, I
 9 don't recall who was handling those kinds
 10 of holds at the distribution center
 11 level.
 12 Q. You don't know who the RPICs
 13 were when this program was initiated?
 14 A. No.
 15 Q. Okay. I believe you
 16 testified earlier that the -- the data
 17 manage -- data management people, I
 18 forget what the term you used?
 19 A. It was just one of -- they
 20 were usually an RPIC.
 21 Q. Okay.
 22 A. But there were other people
 23 at the division -- at the -- at the DC
 24 level who had that responsibility as

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1 well.
 2 Q. Who else had that
 3 responsibility?
 4 A. A number of -- a number of
 5 associates held that responsibility
 6 including the warehouse managers,
 7 compliance clerks.
 8 Q. The order -- we talked about
 9 the filling of orders earlier. Do you
 10 recall that? It comes in from the
 11 computer. They put it in the totes,
 12 things like that?
 13 A. Yes.
 14 Q. That occurs at night,
 15 correct?
 16 A. Depending on the
 17 distribution center. Some of those
 18 happen during the day as well.
 19 Q. Okay. Does it primarily
 20 occur at night?
 21 A. Yes.
 22 Q. The investigation thing here
 23 on Page 5. Do you see that?
 24 A. Yes.

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1 Q. Do you know what that's
 2 referring to?
 3 A. It states, "Report to DEA."
 4 I can't state specifically what they are
 5 referring to in that bullet point.
 6 Q. The next section, on Page 6,
 7 it says, "Audits, investigations, and
 8 regulatory activity."
 9 That's -- that was --
 10 includes activities in your purview as
 11 the regional director, correct?
 12 A. Yes.
 13 Q. Go to the next page. It's
 14 got a summary of DEA audits.
 15 Do you see that?
 16 A. Yes.
 17 Q. Are you familiar with these
 18 statistics?
 19 A. Not for this particular
 20 PowerPoint. But I would take this
 21 information as being accurate.
 22 Q. These are -- concern audits
 23 and inspections at AmerisourceBergen's
 24 facilities?

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1 A. Yes.
 2 Q. It mentions this MOU here.
 3 Do you see that, in 2006?
 4 A. Yes.
 5 Q. Do you know what that was?
 6 A. No, I don't recall.
 7 Q. It says here, "Not good."
 8 Do you see that?
 9 A. Yes.
 10 Q. You agree with -- that an
 11 MOU is not -- not good?
 12 A. From a regulatory --
 13 MR. NICHOLAS: Object to --
 14 THE WITNESS: Sorry.
 15 MR. NICHOLAS: Object to the
 16 form.
 17 THE WITNESS: Yeah, from a
 18 regulatory standpoint we don't
 19 like MOUs.
 20 BY MR. PIFKO:
 21 Q. Why is that?
 22 A. Because we were doing
 23 something wrong, according to DEA.
 24 Q. When there's an MOU, do you

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1 try to change what's going on at the
 2 facility so you don't -- so it doesn't
 3 happen again?
 4 A. Yes.
 5 Q. It's a serious event?
 6 MR. NICHOLAS: Object to the
 7 form.
 8 THE WITNESS: Yes, it is.
 9 BY MR. PIFKO:
 10 Q. How about a letter of
 11 admonition? Do you see that? Just above
 12 that?
 13 A. Yes. Yes, I do.
 14 Q. Is that a significant event?
 15 A. Yes.
 16 MR. NICHOLAS: Object to the
 17 form.
 18 THE WITNESS: Yes.
 19 BY MR. PIFKO:
 20 Q. Do you recall what that's
 21 referring to in 2006?
 22 A. No, I don't.
 23 Q. It talks about 2007
 24 activities, the registration suspension.

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1 That's for the Orlando facility?
 2 A. Yes.
 3 Q. And then it says, "Six
 4 distribution center inspections for order
 5 monitoring program compliance."
 6 Is that correct?
 7 A. Yes.
 8 Q. Do you know what those were?
 9 A. I believe they were the six
 10 distribution centers that the DEA audited
 11 as a precursor to get our registration
 12 back in active status for the Orlando
 13 distribution center.
 14 Q. Okay. So the Orlando
 15 distribution center had issues that led
 16 to the suspension, and then the DEA went
 17 to inspect other facilities as a result
 18 of that?
 19 MR. NICHOLAS: Object to the
 20 form.
 21 THE WITNESS: That's my
 22 understanding of the chronology,
 23 yes.
 24 BY MR. PIFKO:

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1 Q. How did you come to that
 2 understanding?
 3 MR. NICHOLAS: Same
 4 objection.
 5 THE WITNESS: Based on this
 6 report.
 7 BY MR. PIFKO:
 8 Q. Did you talk to anyone at
 9 the company about that?
 10 A. I don't recall back in that
 11 time period.
 12 Q. Okay. But looking at that,
 13 you're able to tell the chronology?
 14 MR. NICHOLAS: Same
 15 objection.
 16 THE WITNESS: I very vaguely
 17 recall, you know, what transpired
 18 in the 2007 time frame. I
 19 remember there was audits from the
 20 DEA in order to get the
 21 registration back in active
 22 status.
 23 BY MR. PIFKO:
 24 Q. Would you have attended any